

§ 821.39 Argument and submissions.

At the hearing, the law judge shall give the parties adequate opportunity for the presentation of arguments in support of, or in opposition to, motions, objections, and rulings. Prior to the initial decision, the parties shall be afforded a reasonable opportunity to submit for consideration proposed findings and conclusions and supporting reasons therefor.

§ 821.40 Record.

The transcript of testimony and exhibits, together with all papers, requests, and rulings filed in the proceeding shall constitute the exclusive record of the proceeding. The record shall also include any proceeding upon an affidavit of personal bias or disqualification of a law judge. Copies of the transcript may be obtained by any party upon payment of the reasonable cost thereof. A copy may be examined at the National Transportation Safety Board Public Reference Room No. 806D, at 800 Independence Avenue, SW., Washington, DC 20594.

§ 821.41 Certification to the Board.

At any time prior to the close of the hearing, the Board may direct the law judge to certify any question or the entire record in the proceeding to the Board for decision, except an interlocutory ruling. In cases where the record is certified to the Board, the law judge shall not render an initial decision but shall only recommend to the Board a decision as provided in 5 U.S.C. 557 (Administrative Procedure).

Subpart G—Initial Decision

§ 821.42 Initial decision by law judge.

(a) *Written or oral decision.* The law judge may render his initial decision orally at the close of the hearing, or he may render such decision in writing at a later date, except as provided in § 821.56(b).

(b) *Contents.* The initial decision shall include a statement of findings and conclusions, and the grounds therefor, upon all material issues of fact, credibility of witnesses, law, or discretion presented on the record, the

appropriate order, and the reasons therefor.

(c) *Furnishing copy of oral decision and issuance date.* If the initial decision is rendered orally, a copy thereof, excerpted from the transcript of the record, shall be furnished the parties by the Office of Administrative Law Judges. Irrespective of the date of mailing of such copy, the issuance date of the decision shall be the actual date of the rendering of the oral decision.

[40 FR 30243, July 17, 1975, as amended at 59 FR 59049, Nov. 15, 1994]

§ 821.43 Effect of law judge's initial decision and filing of an appeal therefrom.

If an appeal from the initial decision is not timely filed with the Board by a party, the initial decision shall become final but shall not be precedent binding on the Board. The filing of a timely appeal shall stay the initial decision.

[59 FR 59049, Nov. 15, 1994]

Subpart H—Appeals from Initial Decisions

§ 821.47 Notice of appeal.

(a) A party may appeal from a law judge's order or from the initial decision by filing with the Board and serving on the other parties (pursuant to § 821.8) a notice of appeal within 10 days after an oral initial decision has been rendered or a written decision or a final or appealable (see § 821.16) order has been served. At any time before the date for filing an appeal from an initial decision or order has passed, the law judge or the Board may, for good cause shown, extend the time within which to file an appeal, and the law judge may also reopen the case for good cause on notice to the parties.

(b) A law judge may not reconsider his initial decision once the time for appealing to the Board from the initial decision has expired or once an appeal with the Board has been filed. However, a timely request for reconsideration by the law judge of his decision, filed before an appeal to the Board has been taken, will stay the deadline for appealing to the Board until 10 days after the date the law judge serves his decision on the request. For the purpose of